

Minutes

Trial Court Budget Commission (TCBC)

April 9, 2001

Ramada Inn North - Tallahassee, FL

Members Present

Susan Schaeffer, Chair
Don Briggs, Vice-Chair
Mike Bridenback
Paul Bryan
Ruben Carrerou
Joseph Farina
Charles Francis
Kim Hammond
Lee Haworth
Paul Kanarek
Randall McDonald
Stan Morris

Carol Ortman
Wayne Peacock
Nancy Perez
Belvin Perry, Jr.
Judy Pittman
Mark VanBever
Theresa Westerfield
Doug Wilkinson

Justice Harry Lee Anstead- Supreme Court
Liaison

Members Absent: Donald Moran, Jr.

Others Present: Office of State Courts Administrator (OSCA) Staff
Hunter W. Carroll, Supreme Court Law Clerk
Richard Dolan, OPPAGA
Maryann Ferencak, OPPAGA

I. Opening Remarks and Approval of Minutes -February 19-20, 2001

Judge Schaeffer called the meeting to order at 9:05 a.m. A slide was displayed with an excerpt from Supreme Court Opinion SC00-429 establishing the Trial Court Budget Commission.

“The TCBC will provide opportunities for chief judges and trial court representatives to articulate the state budgetary needs for their court functions and programs. Most importantly, however, it is our expectation that TCBC members will strive to serve the interest of justice and make decisions that promote equity and fairness in the allocation of State Courts System resources.”

Judge Schaeffer remarked that it is good to reflect on the charge given the TCBC from time to time. She reminded the members that the TCBC represents all the trial courts and was created to

provide a means for the courts to “speak with one voice.” She asked the secretary to call the roll. A quorum was present. Ms. Ortman made a motion to approve the draft minutes of the February meeting and Judge Kanarek seconded. The minutes were approved without objection.

Judge Schaeffer recognized Justice Anstead. He stated that the minutes just approved provided an excellent review of the presentation made by Ted Fetter on the transition to state funding by the State of New Jersey. He encouraged the members to disseminate these minutes widely in their circuits because they demonstrate that a well conceived and orderly transition process could occur. He commented that the minutes were a fact laden, logical way to educate their circuits about the transition issues. John Dew, Chief, Trial Court Funding Policy Section, stated that all TCBC slide shows, including Mr. Fetter’s, and the minutes are posted on our website (www.flcourts.org Click on Judicial Administration; Article V/Revision 7). In addition, Lisa Goodner, Deputy State Courts Administrator, said the TCBC minutes will be included in the packets of the Chief Judges/Trial Court Administrators for tomorrow’s meeting. Several members also responded that they circulate the minutes throughout the courthouse.

II. Report and Discussion on Legislative and Budget Activities

Article V/Revision 7

Judge Schaeffer called on Mr. Dew to report on Article V/Revision 7 issues. He prefaced his report by saying not much had occurred on this issue this legislative session. The Financial Accountability and Efficiency Workgroup has not met. The Joint Legislative Committee on Article V has not met and further, no staff has been hired. It is reasonably certain that the legislature will not address Article V/Revision 7 issues this year. However, there are a few bills filed which impact the issue.

SB 1034, filed by Senator Silver, seeks to amend Section 29.008, F.S. involving county funding of court-related functions. It limits the scope of the funding required by the counties in the areas of both communications and facilities. For example, currently counties are required to pay for all computer systems and equipment as well as staff to maintain such equipment. This bill limits the county obligation to only “reasonable and necessary data-communications related to cabling, hardware, and software, and telephone system equipment and infrastructure.” The bill has four committee references and has not had a hearing yet. It does not have a companion bill in the House.

Mr. Dew reported the OSCA had completed a requested fiscal note to the legislature on the bill. Additionally, while we have no statewide fiscal data on county expenditures for equipment and furnishings, OSCA was able to obtain an example of such expenses from the 11th circuit (Dade County) for FY 1999-2000. Their expense during that time period for such items was over \$1 million. According to our recent cost inventory, OSCA reported the counties expended over \$14 million on direct support to the trial courts for technology. This excludes the indirect costs of such support which

would bring the total cost close to \$40 million. Mr. Dew stated that he continues to work with the Florida Association of Counties (FAC) staff on this issue. The FAC is also working on language which pushes out the effective date of county funding obligations from July 1, 2001 to July 1, 2003. Mr. Dew commented, that based on documents he has seen, the FAC is in general agreement on the nine essential elements we have defined as a state responsibility, with the exception of technology, which the FAC has included in their list as a state responsibility. Technology is an ongoing topic of discussion which the TCBC should address in the future.

SJR 1794/HJR 627 amends Section 14 of Article V to allow that the legislature may, instead of shall, provide adequate and appropriate supplemental funding to the clerks for their operations while performing court-related functions, when the increase in service charges is prohibited by either the U.S. Constitution or the Constitution of the State of Florida. In addition, it provides that any nonpaying party in any civil proceeding or any defendant convicted in any criminal proceeding may be assessed, as provided by general law, the full cost of all services utilized and expenses incurred in such proceeding as determined by the clerk of court. HJR 627 has been workshopped in one of the two referenced committees in the House and SJR 1794 has not been heard in the Senate. Ms. Goodner pointed out this bill is a substantial rewrite of Article V.

SB 1852 is an effort by the legislature to get better information on the amount of fees collected by the clerks that are passed on to various state entities. It has passed one of the three referenced committees. The House Procedural Council has sponsored a similar bill. And finally, there are several bills which propose increases in fines, fees or court costs. These bills are being monitored in light of the funding issues related to Article V/Revision 7.

Ms. Goodner reported that the judicial certification bill, **HB 1865** had passed the house committee unanimously and that the Senate, **SB 1444** was scheduled to hear the bill on April 10. The Senate budget has funding for the certification of 44 new judges and the House budget has no funding currently. Continuing, she reported that of other bills related to the court system, such as merit retention, term limits and the Judicial Nominating Commission (JNC) process, only the JNC bills are being heard. She noted to the members that unlike many reports you read or hear, the legislature has been responsive to the budget needs of the courts.

Budget

Ms. Goodner reviewed the conference committee process and Charlotte Jerrett presented a worksheet comparing the budget for the State Courts System proposed by the House and the Senate. At this juncture, the House and Senate are far apart. The House budget proposes a net \$4.9 million decrease of the base budget, while the Senate proposes an increase of \$10.1 million over the base. The House budget funds no new judgeships. The Senate budget funds 44 new judgeships. In addition, the House cuts 77 FTEs (full-time equivalent positions) from the base, approximately \$3M. Mr. Carrerou asked if we would be successful in retaining the vacant positions in excess of 180 days. Ms.

Goodner responded that it appeared to date that we would be able to keep these positions. Ms. Goodner commented that there was a bill to add 15 capital law clerks - 3 in each appellate district. It has had two hearings in the House and one in the Senate. It has a \$480,000 impact and may well be added to the worksheet which was just presented to the TCBC members.

Ms. Goodner proceeded to review the strategy for conference. First, an attempt will be made to decrease the House base budget reduction by proposing a shift of \$2.5 million from general revenue to the Article V Trust Fund for conflict cases. This will buy back the \$2 million proposed base cut. Second, decrease the 180 day vacancy reduction by offering efficiency reductions and some vacant positions. Third, look at circuit specific programs. A general discussion followed on possible strategies to present to the Legislature during their budget conference.

Ms. Goodner reviewed the general appropriations act and outlined how the funds are appropriated to the State Courts System and how OSCA then allocates the budget to the twenty circuits. OSCA has certain steps it takes to allocate these funds equitably and in the future, these are the kinds of decisions the TCBC will be involved with. Mr. VanBever asked about the pay increase proposal. She responded that currently the legislature was proposing a 2.2% pay increase. She also explained that pay plans issues are separate from operating expenses. It was also mentioned that the tax cut issue would impact the conference negotiations. Right now everything is on hold until the members of the legislative conference committees are appointed.

III Discussion of Chief Deputy, Senior Deputy, and Deputy Court Administrator Issue

Judge Schaeffer began with a review of her memo to the Executive Committee outlining the purpose of their conference call on March 13, 2001. She expressed regret that Judge Moran was not in attendance today because the full Trial Court Budget Commission should hear directly from him on this issue. However, she stated that this issue must be resolved today so she continued with her outline of the issue. She first referred to the minutes of the TCBC meeting on January 22-24, 2001 which gave top priority to pay increases for deputy and senior deputy court administrators, as presented by Margie Howard, Chief of Personnel Services, OSCA. This pay plan proposal would result in an average pay increase for state funded deputy court administrators of 9.22% and an average pay increase for state funded senior deputy court administrators of 9.31% (OSCA Pay Plan Analysis).

Subsequent to the January meeting, Judge Moran, faxed a memo to all chief judges and trial court administrators stating that a possibility existed that a limited number of senior deputy court administrators may be reclassified to the position chief deputy court administrator with a corresponding increase in salary. He requested, that if a senior deputy in their circuit should be considered for this reclassification, to notify him by February 9, 2001.

He received responses from the 3rd, 5th, 10th and 19th Circuits. He then met with Senator Jim Horne, Chair of the Senate Appropriations Committee, and presented his pay plan proposal for a chief

deputy court administrator category for seven state funded employees (one each from the 3rd, 5th, 10th and 19th Circuits and three from the 4th Circuit). In a letter to Senator Horne dated March 2, 2001, Judge Moran presented proposed proviso language appropriating \$226,400 (plus benefits) for these seven senior deputies to be reclassified to chief deputies and to make them eligible for "Senior Management Service" benefits.

Judge Schaeffer reported that during a conference with Judges Moran, Farina, and Perry, representing the Florida Conference of Circuit Judges, and herself representing the TCBC, Chief Justice Wells asked whether the TCBC had approved Judge Moran's proposal. Judge Schaeffer said the TCBC had not reviewed Judge Moran's proposal. It was discussed that the proposal was not an appropriate proposal for the Circuit Judges' Conference to pursue under the rule establishing the TCBC. Justice Wells requested that Judge Schaeffer call a meeting of the Executive Committee, prior to the full commission meeting, to determine whether or not the TCBC was in agreement or disagreement with Judge Moran's proposal. Therefore, the TCBC Executive Committee met via conference call on March 13, 2001 and discussed the proposal. Judge Schaeffer reported she outlined three possible solutions: 1) support the issue; 2) remain neutral on the issue; or 3) oppose the issue. After a lengthy discussion, the Executive Committee voted to oppose Judge Moran's proposal and bring it to the full TCBC for a vote.

Judge Schaeffer noted, that since the Executive Committee conference call, that every chief judge that had responded to Judge Moran's earlier request had withdrawn their request to be included in his pay plan proposal. Furthermore, Judge Alvarez, Chair of the Judicial Administration Section, wrote a letter to the chief judge of each circuit saying that this issue should go through the TCBC.

Theresa Westerfield stated that there were two issues that needed to be addressed today by the TCBC. First, determining if the TCBC opposed Judge Moran's proposal, and if so, determining what action should be taken in opposition. Judge Farina stated that he currently believed that Judge Moran's proposal now only provides funding for three chief deputies for the 4th circuit and an additional one for the 18th circuit. Mark Van Bever, from the 18th circuit, reported that his chief judge had withdrawn his request. Judge Farina and Judge Perry provided insight into Judge Moran's position saying that he intends to go forth with this proposal. Judge Perry related that Judge Moran considered this a local issue. Judge Schaeffer asked each TCBC member to discuss the issue and say if they opposed the plan or supported it.

Every member in attendance voiced opposition to this proposal. The vote was 20 members opposing the Moran proposal and one member absent. While the commission members were supportive of the proposal to create a chief deputy court administrator classification, they opposed the approach taken by Judge Moran, given the TCBC's earlier pay plan proposal from their last meeting. The general sentiment of the commission members was expressed in the following two viewpoints: 1) Given the charge of the TCBC, this proposal should have been evaluated and voted on by the TCBC because the commission is set up to help ensure equities and balance as we move to state funding. The

current proposal would potentially create inequities among the 20 circuits by allowing only a few circuits to have chief deputy court administrators funded by the state. While such a plan may benefit one or two circuits, it should be viewed as a statewide issue since it will cause inequities in those circuits that do not get funding for these positions. The cost to provide such new positions and the associated salaries for each of the circuits, if at the salary levels outlined in the Moran proposal, would be significant for the state. 2) At a time when the Governor and Legislature are both trying to cut back on government and “hold the line” it is not right to ask that the trial courts be provided some salary increases of over 70% for certain employees; furthermore, it is questionable if those staff currently in the position for promotion to chief deputy court administrator in the 4th circuit would all be at the level of a chief deputy court administrator.

A discussion began on the how the TCBC would voice its opposition to Judge Moran’s proposal. Judge Haworth suggested that the authority and discretion on how to oppose this proposal be given to the Executive Committee. They are in the best position to determine the appropriate response when the Legislature’s Appropriations Conference Committees meet. A motion was made by Judge Haworth and seconded by Mr. Peacock that the Executive Committee be given the discretion to decide how to best voice the TCBC’s opposition to Judge Moran’s proposal. The motion passed unanimously.

Judge Schaeffer now called for a discussion on the issue of having a chief deputy court administrator. Currently, only the larger counties have a chief deputy court administrator, which is paid for by the county. She questioned, should these positions continue under state funding and should each circuit have a state funded chief deputy court administrator? Furthermore, what are the responsibilities and qualifications for this position? Judge Schaeffer asked, how many thought we should have a chief deputy court administrator as a state classification? The show of hands was unanimous. A general discussion ensued as the members reviewed the proposed job description for a chief deputy court administrator as presented by OSCA staff.

Judge Schaeffer next asked the question, “Should there be more than one chief deputy in a circuit?” Mr. Carrerou, from the 11th circuit, stated his circuit has two chief deputies. He felt that the circuits should be allowed to determine this question based on the amount of work and responsibility required in that circuit. Mark VanBever expressed his preference to not limit the number of chief deputies a circuit could have. Ms. Ortman disagreed, stating she thought there should only be one chief deputy and that person should be considered the second in command. Judge Schaeffer stated she only had one chief deputy. Judge Schaeffer called for a vote on whether there should be more than one chief deputy per circuit. The vote was 12 to 7 in favor of having only one state funded chief deputy per circuit.

IV Discussion of Legislative Member Projects

Judge Schaeffer referred to the two packets of “Community Budget Issue Requests” provided in the meeting materials. These are legislative member budget requests for funding specific local projects which have been included in the State Courts budget in one or both of the House or Senate’s appropriation bills. She reviewed one of these requests from her circuit. The project title was Pinellas County Drug Program. She noted that the project was in both the House and Senate budgets; however, they were requested by different persons in her county and for different amounts. Even though the House requester for this budget request was listed as a court staff person, the staff person knew absolutely nothing about the request. Judge Schaeffer stated she did some investigation and found that a request for information came to her court administrator from a legislator and the project was being supported by the mayor. It is a small drug treatment center that is trying to get up and running.

As the chief judge for her circuit, she did not request this program for her circuit’s budget. There are ten such proposals in the State Courts budget for conference from different circuits. These projects were not requested by the courts and may not directly benefit the courts. In fact, the money is usually passed through to another budget. Ms. Goodner commented that during conference, OSCA was often successful in moving some of these programs to the proper budget. Judge Schaeffer asked the members how these proposals should be addressed by the commission now and in the future. A general discussion ensued; however, there were no conclusions. Judge Farina made a motion that the TCBC not do anything regarding member proposals this year. The motion was seconded by Judge Pittman and passed unanimously.

V Discussion of Operational Procedures and Cost Inventory Update

Operational Procedures

Judge Schaeffer stated that the major change to the proposed procedures was in the appeals process. However, there were two other changes suggested that would require TCBC members to serve on at least one subcommittee and established procedures related to attendance at these subcommittee meetings. Judge Schaeffer further suggested, that if the chair of a subcommittee requested that a member be replaced from the subcommittee due to having consecutive absences, that the member be replaced on the full commission. Judge Briggs moved to approve these two changes. Mr. VanBever seconded the motion and it passed unanimously.

Judge Schaeffer introduced Judge Francis to present the draft of the appeals process. Judge Francis stated there is no simple way to create an appeals process. He expressed that his experience with the Florida Bar appeals process provided the basis for the proposed procedure and he outlined the draft. It establishes an Appeal Panel of five TCBC members appointed by the Chair. All appeals are filed with the Office of the State Courts Administrator by the Chief Judge of the circuit. It provides

for when the appeal shall commence, the content of the petition and allows for oral argument. If the Appeals Panel affirms the decision, then the decision is the final decision of the TCBC. If they reverse a decision, it can go back to the TCBC. The TCBC can decide to review or not review. If the request for review is denied by the TCBC, then the appellant decision stands. If the TCBC decides to review the decision, the TCBC can either change their decision or deny the request again.

Judge Morris expressed some concern about the 10 day window to file an appeal to the Supreme Court and exactly when a TCBC decision could be appealed to the Supreme Court. He stated the current draft was unclear. A general discussion followed on this issue. Judge Schaeffer summarized the discussion by suggesting that an appeal be filed with the Supreme Court within 10 days of the TCBC's final decision. Further, she stated that the Supreme Court could hear only appeals based on the failure of the TCBC to adhere to its operating procedures and appeals could be taken to the Supreme Court only after exhausting the appellant remedies before the TCBC.

A motion was made by Judge Morris to give *tentative* approval to the appeals section as presented. Judge Haworth seconded the motion and it passed unanimously. Judge Schaeffer stated that a final vote on the operating procedures would occur at the next meeting of the TCBC.

VI Cost Inventory Update

Mr. Dew reviewed the current status of the cost inventory audits. He noted that three circuits have been audited to date, the 2nd, 3rd and 8th circuits. An audit plan and schedule has been developed for the remaining circuits. He also noted that a court administrator was involved with each of these audits, as directed by the TCBC.

Greg Cowan presented an update on the findings of the cost inventory audits. He began by reviewing how the audits are conducted. They are a one day general review which focus on the nine "essential" elements. The audits involve four parts: review of temporary and contractual expense and OCO data, personnel data, outstanding issues identified in the internal review, and review of the Part II data by the accompanying trial court administrator. He asked Theresa Westerfield, Court Administrator from the 16th circuit, to provide her impressions and findings from the audit she attended in the 8th Circuit.

Ms. Westerfield stated that her main finding was that the counties were placing some cost allocations in Part II that should be in Part I. She recommended that a trial court administrator accompany the audit team on each of the audits. She found it beneficial for a trial court administrator (TCA) to be on site because as a TCA, she had a good understanding of what Part II costs should consist of and the ability to question staff directly.

Mr. Cowan continued with other major findings on these audits. He commented that the findings from the audits conducted were consistent with findings from the previous audits and internal

review. Some of these findings include reporting different FTE and personnel costs on the personnel template versus the cost inventory, incorrect salary information for specific employees, and placing expense dollars in the wrong category. He reviewed the tentative upcoming audit schedule and cleared up some earlier questions from the TCBC members concerning the inventory data. Specifically, Mr. Cowan explained that in the 11th Circuit the \$42 million reported in Part II was reduced to zero because all the costs reported earlier were determined to be a function of the clerk's office; in the 6th Circuit it was found that expert witness costs were incorrectly reported in the case management category; and in the 16th circuit there was still work being done to correctly categorize judicial assistants paid by the county who are doing case management work.

Mr. Dew commented that all the audits are scheduled for completion by July. He also stated that a memo, the audit plan and the tentative schedule was being faxed this week to all the circuits trial court administrators.

VII Funding Methodology Subcommittee Report

Carol Ortman reported that the subcommittee met on March 23, 2001 in Tampa and she summarized the deliberations and recommendations of the committee.

Auxiliary Aids and Services (AAS)

The subcommittee recommended that the proposed budget be sufficient to fund:

- < the estimated recurring need for contractual services;
- < the ongoing equipment needs of the circuits; and
- < training for ADA coordination and service delivery.

The recommended budget for auxiliary aids and services is \$305,000. This includes:

- < \$217,500 in recurring OPS funds for sign language interpreting services;
- < \$29,100 in recurring OPS funds for real-time transcription services for persons who are deaf or hard of hearing;
- < \$38,400 each year in OCO and expense funding for equipment; and
- < \$20,000 in recurring expense funding for training.

Ms. Ortman stated that 18 circuits had replied to the subcommittee survey. This budget is based on an estimate of need and includes a recurring amount for equipment, growth and new acquisition. The subcommittee further recommends that the funding be pooled at the state level with circuit expenditures paid from this fund. Once sufficient information is available to determine a predictable circuit need, a specific funding allocation may be considered. Also, it is recommended that the Local Requirements/Obligations and Standards Subcommittee consider integration of AAS in their

development of facility standards.

Mr. Carrerou asked if there was any emergency funding or rainy day fund available should the proposed amount not be enough? Ms. Goodner responded that we hope that dollars would be put in a special category for state funding. As a request for funding came in, the OSCA would allocate the dollars. She indicated that this budget seems adequate at this time. Brian Lynch, Court Operations Consultant, OSCA, stated that in some areas such as equipment there was a funding source; however, in other budget areas there was not a lot of play in the suggested amounts, such as the service delivery area (sign language, real time court reporting, etc.). Over time, a best practices model should evolve for statewide funding. A motion was made by Ms. Westerfield to accept the recommendation of the subcommittee and Mr. Bridenback seconded. It passed unanimously.

Guidelines for Expense Allocations and Expenditures

Ms. Ortman remarked that the subcommittee was not asking for a vote regarding this issue today; however, she stated that the recommendations do require discussion by the TCBC. She reported the subcommittee reviewed the policies and staff analysis of the factors to be considered in the development of the expense budgets for the circuits. These include:

- < the expenses and operating costs that are to remain with the county;
- < the expenditures that the comptroller will not reimburse;
- < the current policies of the Supreme Court for authorized reimbursement;
- < the recurring and non-recurring expenses included in the cost inventory;
- < the standard state expense budget formulas associated with positions;
- < the special additional expenses required for specific court resources and services; and
- < the policy for the property management of court inventory of office furniture and equipment and the formula for replacement costs.

With these factors in mind, the subcommittee recommended the following funding formula be used to define the expense budgets for the circuits.

- < Each position transferred from the county to the state would be allocated the standard state expense amount for professionals of \$6,854.
- < Each service and resource included in the nine elements identified as “essential” and “reasonably necessary” in the Revision 7 budget will be reviewed to determine the special additional expense requirements. The budget formula for each element will include a recommended expense amount.
- < Chapter 29, F.S. currently provides for the county to be responsible for office furniture as well as courtroom furniture. It is recommended that legislation be advanced to provide county responsibility for courtroom furnishings and state responsibility for office furnishings for state

paid employees. A recurring budget for replacement costs will then be developed for each circuit considering the normal furniture and equipment allotment for each employee and an estimate of the equipment replacement needs of the circuits.

< The subcommittee recommends that the expenditures associated with cellular phones and beepers be maintained by the county as part of the communications funding required by Chapter 29, F.S.

< The subcommittee has identified several expense items that are allowable in some counties but prohibited under state law.

Judge Schaeffer reiterated that no vote would be taken and opened the floor for comments and discussion on these recommendations. She framed the discussion with an example. She noted her county currently pays for such things as conference fees and Florida Bar dues. The state may restrict paying for such items. This then would be a question of who pays for what and presents the following questions. What expenses are the counties paying for now? What expenses can the state pay? What expenses should the counties continue to be responsible for in the future?

Mr. Carrerou and Judge Farina both asked, that if Chapter 29 requires the county to pay for office furniture, why is it we are asking the state to pay? It was explained that the committee assumes the transfer of county furnishings to the state will occur; however, this expense recommendation is made to provide for occasional replacement costs of these furnishings. The current law requires the county to pay for furnishings. Judge Farina asked what happens when there are new judges and J.A's certified. Ms. Goodner explained that equipment and furnishings are currently budgeted with the new positions.

Mr. Bridenback suggested that someone take a look at how to change or modify the state's restrictions on what expenses it pays for. Is it in the Administrative Code or Florida Statutes? Mr. Carrerou asked what happens when a county constructs a new courthouse? Ms. Ortman replied that new construction has not been discussed by the committee. Judge Farina stated that we should consider making sure that the current revenue stream used by the counties for their court facilities fund is protected. The subcommittee was encouraged to continue its debate on these issues heeding the concerns mentioned by the members and to come back to the commission with a final recommendation.

Budget Strategy for 2002 Legislative Session

Ms. Ortman related that the subcommittee had discussed the options for the advancement of the Revision 7 budget for the 2002 legislative session and the implications for the regular budget process of the trial courts. The committee recommended that the full commission consider the following alternative strategies for advancing a Revision 7 budget. The TCBC should consider these factors and make a final determination of a funding strategy at the May 22-23 meeting.

< Advancement of the model budgets for all nine essential elements.

- < Advancement for model budgets for resources related to the elements that can be fully prepared and projections for other elements which have not been totally refined.
- < Advancement of some elements in 2002 legislative session and the balance in the subsequent year.

Further, the subcommittee recommended that in the year that the Revision 7 budget is advanced, there should be no other competing trial court issues advanced. Also, it recommended ways to communicate this plan to the circuits.

Judge Schaeffer stated that again no vote was going to be taken on this issue today but that it needed to be outlined prior to the next meeting. The question is when and how to make the move. Ms. Goodner reported that because 2002 is a reapportionment year, there are two bills filed this session that will change the start date of the 2002 session. If this occurs, all the time lines relating to preparing a budget will be pushed forward. The Governor must submit his budget to the legislature 45 days prior to the beginning of the session. Ms. Ortman commented that is why the subcommittee has suggested different options.

Judge Schaeffer offered that she was not in favor of implementing Revision 7 on a piece by piece basis. She expressed her preference for requiring a moratorium on all court related issues and pushing for all of the Revision 7 transition issues at the same time. She commented that if it cannot be done as a package, then she prefers to wait until it can. Ms. Ortman emphasized that there is still much work to do to get everything ready given the possible time lines for the 2002 budget.

Judge Farina and others commented that it is pointless to fast-track preparing our proposals for the anticipated 2002 budget deadlines, when we do not know when or if the legislature and/or the Governor intends to address Revision 7 next year. Judge Schaeffer stated, that between now and the next TCBC meeting, she would meet with the Chief Justice to discuss this issue and the possible strategies for moving forward on Revision 7 next year. She thanked the subcommittee for their report.

VIII Revenue and Revenue Enhancement Subcommittee Report

Judge Farina asked Mr. Dew to present the report of the subcommittee meeting held March 22, via conference call and video teleconference.

Mr. Dew reported that the committee recommends that specific fines, fees, and court costs not be used to fund any of the essential elements with the exception of alternative dispute resolution. It was the general consensus of the committee that the judicial system should not be dependent on these revenue sources because it may look like we are going back to “cash register justice. No recommendations were made for new funding sources. It was further recommended that fines, fees and court costs that are used to fund local programs that are not essential elements be kept at the local level. However, if these moneys are related to the essential elements, they should be redirected to the

state and placed in a general fund for help fund the court system.

Also, it was recommended that an automated system be developed to allow for the state to document the amount and type of revenue collected at the local level. Further, the committee recommended that the trial courts should assume the role of assessing costs and enforcing collections; the executive branch should act as the collection agent and be responsible for securing the dollars assessed; and, the legislature should be responsible for clarifying the statutory language, developing the collections priority and determining the collection process.

Mr. Dew reviewed the purpose and summarized the results of the Assessment and Collections Process questionnaire sent to each of the circuits. All counties have some type of an assessment process, 26 of 67 counties have some type of collection process, and 12 counties have enforcement courts. He stressed that the information obtained only emphasized the need for further and better information. The next step before the committee makes a final recommendation on this issue will be for staff to visit and observe the judicial enforcement process in several circuits and to review other states "best practices."

Mr. Dew focused attention on the Circuit Revenue Data for FY 1998-99 chart as derived from the Uniform Chart of Accounts (UCA). The UCA information is sent to the Department of Banking and Finance by the clerks. Of the total \$387 million collected, \$198.2 million was collected from fines and forfeitures. We do not know what percentage of these monies is related to fines and what percentage is related to forfeitures. Again, we need further information to determine how much the clerks, sheriffs, and state agencies receive from this revenue. The UCA does not provide this information.

In addition, staff has developed a survey to gather data on local revenues assessed by the courts to learn more about how these local revenues are used. The survey has begun and may be completed by the next meeting of the TCBC. The information collected should identify the extent to which local trial courts are dependent on local fines, fees, and court costs. With this information in hand, the subcommittee will recommend which specific fines, fees, and court costs be protected.

Mr. Dew asked Judge Haworth to review his paper which offers proposals on revenue enhancement for discussion by the TCBC. Judge Haworth explained he prepared this paper because many ideas had been presented to him and he felt they were worth getting on the table. It is intended only as a discussion tool. He suggested that these are ideas which can demonstrate to the legislature that the courts are serious about assessing and collecting fines, fees and court costs. He stated that there needs to be a systemic revision of how this revenue is collected and this paper offers some suggestions on ways to accomplish this. He reviewed the concept of a statewide collection center, changes which could be made in the uniform chart of accounts, and changes which could be made in judicial collection procedures. He concluded by outlining some possible guiding principles and issues for further consideration.

IX Personnel Subcommittee Report

Judge Schaeffer recognized Mark VanBever to present the Personnel Subcommittee report. Mr. VanBever began by focusing attention on two options for the TCBC's consideration. The first option assumed the transfer of employees from county to state and the second option assumed pass through funding/grant-in aid from the state to the counties. The subcommittee recommended the transfer of employees from county to state.

Judge Schaeffer reminded Mr. VanBever that at a previous TCBC meeting it was recommended that a hybrid of these two assumptions be used and asked if he was now asking the commission to reconsider the issue. Mr. VanBever answered affirmatively. Ms. Goodner responded to Judge Schaeffer stating that this recommendation relates to employees and the previous discussion related to services. Mr. VanBever moved that the commission accept the recommendation of the subcommittee that the first option be approved. The motion passed with two dissenting votes by Mr. Bridenback and Mr. Wilkinson.

Mr. VanBever presented the following additional subcommittee recommendations to the commission:

- < New classifications will be required for all positions transferred for which the state court system classes don't exist.
- < Hold transferring employees' salaries harmless initially.
- < Through implementing language, seek immediate blanket insurance enrollment in state group plans for transferring employees, with waiver of pre-existing conditions.
- < Do not attempt to equalize benefits due to the difference in county plans.
- < Through implementing language, provide for coverage from first date of employment.
- < Seek legislation to address employees impacted by loss of retirement benefits with City of Jacksonville.
- < County employees may transfer up to 80 hrs. of annual leave and 320 hrs. of sick leave, or a total of 400 hrs. unileave (80 hrs. credited to annual leave and 320 hrs. credited to sick leave.) Alternatively, 160 hrs. of unileave may be transferred and credited to annual leave with no hrs. credited to sick leave. All balances greater than the amounts permitted shall be paid in accordance with the leave policy of the county.
- < Amend the state court system "eligible service" definition to accommodate transfer to protect eligibility under the Family Medical Leave Act.
- < All positions associated with the essential elements and consistent with the funding model approved by the TCBC will be transferred.
- < Notify employees that they will become at will employees on the date of transfer.
- < The current monthly payroll period should remain in effect for the state courts system.

Judge Schaeffer moved all the recommendations by the subcommittee and Ms. Westerfield seconded. There were no dissenting votes. Ms. Goodner reminded the subcommittee that their work

plan needed to coordinate with the anticipated new budget time-lines for 2002. Mr. Carrerou asked Mr. VanBever if anybody was visiting the circuits to classify the positions. He responded that Ms. Michelle Leshko, Pinellas County, is chairing a subcommittee that will do much of this work.

X Local Requirements Subcommittee Report

Judge Briggs prefaced his report by saying that this committee is operating in somewhat of a vacuum at this time because we do not know what the position of either the legislature or governor is in regard to the definition of local requirements. Nor does the subcommittee know what the counties will propose. The issue of what is a local obligation is a moving target. With that, the subcommittee presented five options:

- 1A All requests for consideration of what is a local requirement would be forwarded to OSCA for review by the TCBC (or other entity). The TCBC approved list of local requirements would be forwarded along with other budget requests to the legislature.
- 1B Option 1A and adding the counties pay the State a fixed amount annually to cover the cost of local requirements.
- 2A Local justification/approval of local requirements without a maintenance of effort provision. (Chief judge would certify the local requirement.)
- 2B Local justification/approval with a maintenance of effort provision fixed at the FY 99-00 level. (Same as above, only fund at a certain level).
- 2C Local justification/approval with a capped maintenance of effort provision. (Similar to the last two. A percentage of prior expenditures does not preclude the county from having local requirements.)

The subcommittee recommends 2A which would require a definition of local requirements. The committee surveyed the circuits on a definition of local requirement. Thus far, the committee has received approximately 11 or 12 responses. There seems to be no clear mandate on a definition.

Judge Perez asked why there was not a maintenance of effort in the subcommittee's recommendation. Judge Briggs said there are legal issues with that option which the subcommittee is exploring. Judge Schaeffer requested Dee Beranek to explain.

Ms. Beranek explained any maintenance of effort language was open ended, meaning it could last in perpetuity. This may conflict with the constitutional amendment which is to be fully effectuated by July 1, 2002. OSCA legal staff will be looking into this issue more. While Ms. Beranek suggested keeping the definition as broad as possible, she also advised the members to be thinking of other factors that could be plugged into this definition.

Judge Schaeffer asked the subcommittee to continue working on recommendation 2A and bring

back additional information to the May meeting.

XI TCBC Time Line and Deliverables

Ms. Goodner reviewed the TCBC Time Line for December 2000 - January 2002. The document showed three time blocks; 1) the original state budget cycle; 2) the possible changes in the cycle based on proposed legislation; and 3) the current schedule for TCBC meetings. The second block was the worse-case scenario, having a January 15 starting date for the legislature, as opposed to the traditional starting date in March. She stated that everyone needs to be aware of these deadlines and the amount of work which must get done to pursue advancing Revision 7 in the 2002 legislative session. The accelerated budget deadlines will have an impact on what we will have ready to take to the legislature.

Ms. Goodner then reviewed the decisions which the TCBC should make at each of the scheduled meetings just to make the budget deadlines in current law. She reiterated that there was a lot of work to do. All the subcommittees have been asked to develop time lines and work plans to adjust to the accelerated budget schedule.

At the close of the meeting Judge Schaeffer thanked everyone for their hard work and reminded the members that the May 22-23, 2001 meeting would be in Tampa. The meeting adjourned at 4:35 p.m.